Asheville Edibles Program Application Cover Page

An urban agriculture program of the City of Asheville

Name of Applicant:	
Date Submitted:	
Address:	
Email:	
Phone:	
Name of principal	
business or nonprofit	
organization:	
First Choice:	
Third Choice:	
For Application Reviewer	
Application cover p	page
Narrative descripti	on
Design drawings	
Business plan	
Community benefit	plan
Acceptance of police	ties and procedures

All parcels are available on a first come first serve basis to the applicant with the highest RFA score. If a parcel is not available, your application will be placed on a waiting list. Waiting list applicants will be notified in the event a parcel becomes available. Please email your completed application to hmahoney@ashevillenc.gov, or deliver to the Office of Sustainability, 5th Floor of City Hall (70 Court Plaza).

2017 Request for Applications: Asheville Edibles Program

An urban agriculture program of the City of Asheville

The City of Asheville (City) is seeking applications for an Urban Agriculture land use program. This Request for Applications (RFA) is intended to support urban agriculture development within the City limits to increase local food production and community food security. The City encourages applications from qualified local individuals, businesses, and/or nonprofit organizations to apply for a lease agreement to use currently vacant or underutilized City-owned property to produce fresh, healthy food for local personal consumption and/or sale.

The Asheville Edibles Program's goal is to lease available City property for the cultivation and sale of plants, herbs, fruits, flowers, or vegetables, either as for-profit or not-for-profit enterprises, and develop partnerships with local community organizations.

Section 1: Program Goals and Background

In 2013, the City of Asheville created the Food Policy Action Plan in support of the Asheville Buncombe Food Policy Council to advise Asheville City Council on policies and goals to identify the benefits, challenges and opportunities for a successful, sustainable local food system in Asheville. The Asheville Buncombe Food Policy Council represents a wide variety of stakeholders, and serves as a forum for discussion and promotion of community-wide efforts to improve the community's access to local food supply and distribution networks. http://www.abfoodpolicy.org/

One key initiative identified by within the Asheville Food Policy Action Plan is the potential for Cityowned land to be leased to local growers for vegetable and fruit production. Land currently underutilized by the City could serve to:

- Support the local food economy by providing land for farmer-entrepreneurs looking to start or scale-up their food production business.
- Help address food access issues, as leases will include a community benefit component (i.e. a % donation to organizations that serve low-income families' food needs).

The City's Office of Sustainability and City's Economic Development Real Estate staff identified potential sites available for lease to local market growers for food production.

Section 2: Available Sites

The lease of the following parcels is intended to promote Asheville's Green Portfolio, Urban Agriculture Program and its objectives. All lease sites must be maintained and managed for agricultural use during the term of lease. The City will lease the following sites for a maximum term of three (3) years per parcel, at Fair Market Value for agricultural land; current estimate \$300/acre/year. Subject to the approval of the City staff, the City reserves the right to extend a lease for an additional two (2) years.

The following sites are City-owned and available for lease.

Sites for lease: (see attached maps for exact locations)

1. Hardesty Lane - East Asheville near Azalea Park (+/- 0.86 acres)

To the rear of the City's Azalea Park, there is a large area of City-owned land between the railroad and the Swannanoa River. There are several land uses at this site, including an existing ten (10) acre organic-certified farm lease, operated by Balsam Gardens, an industrial composting facility lease operated by Danny's Dumpster, a greenhouse lease operated by the Men's Garden Club and an inert fill site utilized by the City Public Works Department. At this location, there is a 0.86 acre flat area onsite that appears to be suitable for an urban agriculture site. This site seems to be suitable for a market farm business. Water Source – nearby Pond or Swannanoa River. Access – Tunnel Road, to Azalea Road E to Hardesty Lane.

2. 501-572 Swannanoa River Road (Max 1 acre)

This lease opportunity is close to the Asheville Municipal Golf Course in East Asheville. After the flood events of 2005, the City purchased a long narrow strip of land along Swannanoa River Road between the Wal-Mart Shopping Center and the Shell Gas Station for future flood protection. Although the parcel is narrow, this site could be suitable for fruit trees, mushroom cultivation, aquaponics or other innovative farm businesses. Water Source – Swannanoa River. Access – Off of Swannanoa River Road.

Section 3: Application Requirements

Applications for the development of the leased properties must provide the following six components:

1. Completed application form cover page. (1 page)

2. Narrative description of the proposed agricultural use for the site including: an outline of food production plans with a timetable of the farming start-up, in-season and off-season operations and related maintenance for the first operational year and specify the growing practices to be implemented, especially adherence to organic practices, Integrated Pest Management techniques, and any intent to apply agricultural chemicals or pesticides. **(1 page)**

3. Design drawings for preferred lease property choice #1 illustrating the planned changes to the existing site & proposed agricultural use. Any site modifications (i.e. composting activities, pathways, edging, contours, fencing, etc.) must be graphically illustrated and noted on a simple site design drawing. (1 page)

4. Business Plan: (1-2 pages)

A short business plan is required with the application describing:

- **a.** The objective of the business/nonprofit farming endeavor.
- **b.** A basic market assessment, identifying the market being targeted, the unmet need the business product(s) will fill in the community, and an assessment of demand for the product(s) to be cultivated on the lease site.
- **c.** Description of the farm management team members (principal operator and employees), years of agricultural experience, and qualifications to manage the proposed project.
- **d.** Marketing strategy for the produce sale/distribution.

5. Community Benefit Plan: (1 page)

Applicants are required to provide a brief description of the community benefits they intend to provide through their farming operations and activities. Applicants are not limited to the following list, however a few sample benefits include:

	Provide mentorship/apprenticeship opportunities
	Participate in educational outreach.
П	Donate a % of produce to Manna Food Bank or other local food pantries.

6. Applicants must indicate that they accept the Lease Terms, as well as the Urban Agriculture Lease Program Rules and Procedures (attached at bottom of application), for the Asheville Edibles Program, including insurance provisions. A sample lease is included in the attachments at the bottom of this application. Indicate your acknowledgement by a written statement in your application.

Section 4: Selection Procedure:

City staff will review and evaluate applications promptly after the submission deadline. Evaluation of applications and selection will be based solely on the criteria listed in this RFA. The City reserves the right to waive portions of the RFA for all applicants, to excuse minor informalities in an application, or to reject all applicants, if deemed in the best interest of the City.

The City will identify and disqualify any applications that do not meet the minimum qualifications. To participate in this RFA for the Asheville Edibles Program, organizations and individuals must meet the following minimum standards:

Completeness of submission – A	ll six sections	of the	application	must be	completed	and
submitted by submission deadline.						

□ **Compliance with RFA goals** – Proposed work must meet the objective of this program, which is to create urban agriculture enterprises in our community that increase our access to healthy, fresh, local food.

The City will identify applicants that satisfy the RFA submission requirements and provide qualified RFA application materials to the Office of Sustainability for evaluation in consideration of the RFA application terms. The RFA application with the highest composite rating scored by the Office of Sustainability, satisfying all the RFA terms, shall be selected. The City reserves the right to work with the highest ranked applicant to refine the application based upon community input. The Office of Sustainability will recommend the selected applicant to the City's Planning and Economic Development Committee for final approval.

Sample Lease Agreement – Asheville Agricultural Lease

The following Sample Agreement is provided as an example. Final Lease Agreement is subject to changes based upon discussion and negotiations between parties.

STATE C	F NORTH CAROLINA	AGRICULTURAL LEASE
COUNT	OF BUNCOMBE	AGNICOLI ONAL LLAGE
betweeı	THIS LEASE, made and entered into as of the day of, the City of Asheville, a municipal corporation (herein "Lessor"), and, (herein "Lessee").	. 20, by and
	WITNESSETH:	
	WHEREAS, Lessor ownsacres of real property, identified as PINson the Buncombe County tax maps; and	
	WHEREAS, Lessee desires to lease a portion of said real property for agric	ultural purposes; and
	WHEREAS, Lessor is receptive to leasing a portion of said real property to	the Lessee;
hereby l	NOW, THEREFORE, in consideration of the rents and covenants hereinafte eases to the Lessee, and Lessee hereby accepts for lease from the Lessor, ter described, upon the terms and conditions herein set forth:	
A.	TERMS AND CONDITIONS	
	Leased Premises: The leased premises consist of approximately, being a portion of, and more specifically shown on the I hereto and incorporated herein by reference, for the sole purpose of production.	PINs Exhibit "A," attached
	 production. Duration: The term of this lease shall be three (3) years beginning on, 20 If the Lessee is not in default under the terms of t may renew the lease for one (1) additional three year term. 	
	Termination: This lease can be terminated, without cause, by either the Lessee upon one hundred eighty (180) day written notice, unless a shaperiod is agreed to by the parties. Lessee shall have the right to remove so long as removal of said inventory causes no damage to the leased process.	orter or extended time ve growing inventory

- **4. Rent:** Beginning on the commencement date of this lease, Lessee agrees to pay Lessor an annual rent of ______ AND 00/100 DOLLARS (\$______). Starting in year two, the annual rent shall be adjusted on the anniversary of each lease year by 3% over the amount then payable hereunder.
- **5.** *Payments:* The Lessee shall pay the annual rent by one lump sum payment due on the anniversary of the commencement date of this lease each year to: Real Estate Manager, City of Asheville Economic Development, PO Box 7148, Asheville, NC 28802.
- **6.** *Employees of Lessee:* Any employees furnished by Lessee, pursuant to this Lease Agreement, shall be considered employees of Lessee. Lessee will maintain complete control over the employees' conduct and will disburse all payrolls, taxes, licenses, insurances, uniforms and all other expenses incurred by Lessee during the course of the Lease Agreement.
- 7. Lessee/Lessor Relationship: Nothing contained in this Lease Agreement shall create or be construed as creating, a partnership, joint venture, or employment relationship between Lessor and Lessee.
- **8.** *Repairs*: Lessor shall have no responsibility or obligation to replace or repair any property on the leased premises belonging to Lessee.

B. OPERATION OF PREMISES

- Use: The Lessee covenants and agrees through the term of this Lease to operate the Leased premises only for planting, caring for, and harvesting of crops and other incidental uses.
 Lessee will comply with all requirements of law and governmental regulations thereunder.
 Lessee shall not use, or permit to be used, any part of the Premises for any purpose other than the purpose stated above.
- 2. Organic Certification: The Lessee shall make best efforts to obtain organic certification under the USDA National Organic Program. In the event that certification is not awarded, Lessee must continue to operate, to the best of his ability, in accordance with the principles and restrictions of the USDA National Organic Program.
- **3.** *Limits of Disturbance:* Lessee is permitted to disturb only the leased area of the property, as shown on Exhibit "A".
- **4. Runoff**: The Lessee shall minimize runoff by use of best management practices according to the most recent adopted version of the USDA National Organic Program guidelines.
- **5.** *Permits:* Lessee shall verify with North Carolina Department of Environmental Quality as to whether any permits may be required. Lessee shall be solely responsible for obtaining any and all required local, state, and/or federal permits.
- **6.** *Improvements:* Lessee shall not be entitled to construct any improvements on the Leased Premises without prior approval of the Lessor.

C. INSURANCE AND LIABILITY

1. Insurance: The Lessee shall carry insurance on its personal property located on or around the leased premises as it deems appropriate, and shall pay all premiums associated therewith. Additionally, the Lessee shall, at its own expense, provide and keep in force comprehensive liability insurance with bodily injury and property damage combined coverage in the amount of at least \$500,000.00 per person and \$1,000,000.00 per accident, naming the Lessor as an additional named insured, with the right to receive 10 days notice prior to cancellation of said policy. Lessee shall provide Lessor with certificates of insurance for each lease year.

- 2. Hold Harmless: Lessee shall hold harmless and indemnify the Lessor, its successors and assigns, from and against any and all losses, damages, claims, suits or actions, judgments and costs, and attorney's fees which may arise or grow out of any injury to or death of persons or damage to property or waterways in any manner connected with Lessee's use and possession of the lease premises.
- 3. Destruction of Leased Premises: Lessor shall have no responsibility to replace or repair the leased premises or any part thereof, in the event of damage by force majeure or an act of God, including but not limited to flooding, storms, fire, lightning, or other natural causes. If Lessor determines that the leased premises is unleaseable as a result of damage by force majeure or an act of God, Lessor shall have the right to either i) repair said damage within a time period specified by Lessor or ii) terminate the lease, upon written notice to Lessee.
- **4. Damages:** Notwithstanding Paragraph C.3. above, Lessee shall be responsible for full restoration of any damages to the leased premises connected with Lessee's use and possession of the leased premises.
- 5. Condemnation: In the event the leased premises or any part thereof shall be permanently taken or condemned or transferred by agreement in lieu of condemnation for any public or quasi public use or purpose by any competent authority, whether or not this lease shall be termination, the entire compensation award, both leasehold and reversion shall belong to the Lessor without any deduction therefrom for any present of future estate of the Lessee and the Lessee hereby assigns to the Lessor all his right, title, and interest to any such award. The Lessee shall execute all documents required to evidence such result.

D. MAINTENANCE

- 1. **Charges:** Lessee is responsible for paying all charges for water, electricity, gas, and other utilities furnished to the leased premises for the Lessee during the entire term of this lease. In addition, the Lessee shall pay all ad valorem taxes which may be levied against his personal property located on or around the leased premises.
- 2. Condition: Lessee shall keep the premises at all times clean and sanitary and permit no offensive, unsanitary or objectionable conditions to exist on said premises. Upon termination of the lease, Lessee shall return the leased premises with an established grass cover, with a level grade, and free from all claims, including such taxes as the Lessee may be required to pay hereunder.
- **3.** *Ordinary Maintenance:* The Lessee shall be solely responsible for ordinary maintenance of the leased premises.
- **4.** *Inspection:* Lessor shall have the right to inspect the leased premises at reasonable times and reserves the right to enter the premises at any time in case of emergency.
- **5. Reporting:** On an annual basis, the Lessee shall provide to the Lessor a report demonstrating compliance with this lease or an annual copy of the organic certification of the premises.

E. SPECIAL PROVISIONS

- **1.** *Compliance with Laws:* The Lessee shall comply with all state, federal or local laws, ordinances, codes, rules and regulations governing the performance of this Lease.
- **2.** Assignment or Subleasing: The Lessee may not sublease of assign this lease during the term of the lease without prior written consent of the Lessor.
- **3.** *Hold-Over*: Any holding over after the expiration of the terms of this lease, with the consent of the Lessor, shall be construed as tenancy month to month at a monthly rental payment

based on one hundred percent (100%) of 1/12 of the annual rental payments for the year ending at lease expiration.

- **4. Default or Breach**: Each of the following events shall constitute a breach of this Lease by Lessee:
 - a. If Lessee, or any successor or assigns of Lessee while in possession, shall file a
 petition in bankruptcy or insolvency or for reorganization under any bankruptcy act,
 or shall voluntarily take advantage of any such act by answer or otherwise, or shall
 make an assignment for the benefit of creditors;
 - b. If involuntary proceedings under any bankruptcy law or insolvency act shall be instituted against Lessee, or if a receiver or trustee shall be appointed for all or substantially all of the property of Lessee, and such proceedings shall not be dismissed or the receivership or trusteeship vacated within ten(10) days after the institution or appointment;
 - c. If Lessee shall fail to pay Lessor any rent or other charges when the rent or charge shall become due and such default continues for a period of five (5) days; or
 - d. If Lessee shall fail to perform or comply with any of the conditions of this Lease and if the nonperformance shall continue for a term of ten (10) days after notice thereof by Lessor to Lessee; or
 - e. If Lessee shall vacate or abandon the Leased Premises; or
 - f. If this Lease shall be transferred to or shall pass to or devolve on any other person or party, except in the manner herein permitted; or
 - g. If Lessee's interest in this Lease or the leased premises is subjected to any attachment, levy or sale pursuant to any order or decree entered against Lessee in any legal proceeding and such order or decree is not vacated within fifteen (15) days of entry thereof; or
 - h. If a lien or claim of lien is at any time filed against the leased premises, by reason of Lessee's acts or omissions or because of a claim against Lessee by any contractor or subcontractor of Lessee, and Lessee fails to cause the lien or claim of lien to be cancelled and discharged of record by bond or otherwise within ten (10) days upon receipt of notice from Lessor.

If Lessee fails to correct said breach within the timeframe stated above, Lessor shall immediately terminate the Lease Agreement and take possession of the leased premises, without written notice to Lessee.

- **5. Amendment:** The lease may be modified only by a written agreement signed by the Lessor and the Lessee.
- **6. Notice:** Any notice provided for herein shall be given by Registered or Certified Mail addressed as follows:

As to Lessor:	As to Lessee:
City of Asheville	
Attn: Real Estate Manager	
P.O. Box 7148	
Asheville, NC 28802	

7. **Costs:** The Lessee agrees that in the event the Lessor receives a judgment against the Lessee, the Lessee shall pay all court costs, including the Lessor's reasonable attorney's fees that may be incurred because of any adjudicated breach by the Lessee of any condition or covenant in this lease.

F. <u>MISCELLANEOUS</u>

- **1. Governing Law:** This document shall be construed in accordance with the laws of the State of North Carolina.
- **2. Exclusivity:** No right or remedy herein conferred upon or reserved to the Lessor is intended to be exclusive of any other right or remedy herein or by law provided, but each shall be cumulative and in addition to every other right or remedy given herein or now or hereafter existing at law or in equity, or by statute.
- **3. Severability:** If any term or provision of this lease shall, to any extent, be invalid or unenforceable the remainder of this lease shall not be affected thereby and each term and provision of this lease shall be valid and be enforced to the fullest extent permitted by law.
- **4. Binding Agreement:** This lease shall be binding on and shall inure to the benefit of the parties hereto and their respective heirs, devises, legal representatives, successors and assigns. As used herein, words in the singular include the plural and the masculine includes the feminine and neuter genders, as appropriate.

IN WITNESS WHEREOF, the Lessor has hereunto set his hand and seal, and the Lessee has caused this document to be executed by its duly authorized officers and its seal hereunto affixed, the day and year first above written.

Attest:	CITY OF ASHEVILLE		
	Ву:		
City Clerk	Gary Jackson, City Manager		
(official seal)			
Attest:			
	Ву:		
Secretary			

STATE OF NORTH CAROLINA COUNTY OF BUNCOMBE

came before me this day and acknowledged tha	aforesaid certify that Magdalen Burleson personally it she is the City Clerk of the City of Asheville, a municipal id as the act of the corporation the foregoing instrument attested by herself as its City Clerk.
Witness my hand and notarial seal this _	day of, 20
	Notary Public
	My Commission Expires:

STATE OF NORTH CAROLINA COUNTY OF BUNCOMBE	
	aforesaid certify that personally due execution of the foregoing instrument on behalf of
Witness my hand and notarial seal this _	day of, 20
	Notary Public
	My Commission Expires:

Asheville's Urban Agriculture Lease Program: Rules and Procedures

The following rules and procedures of Asheville's Urban Agriculture Lease Program are meant to ensure safe and responsible operation of city-owned properties for urban agriculture and community gardens. Upon signing a Lease with the City of Asheville, Lessees also agree to accept the following rules and procedures:

- **A. Water Service:** The City of Asheville provides water service. A water meter is currently available, or may be available to be installed on the property. Any necessary water installations will be at cost to the Lessee (*charges for installation of a waterline are estimated to be around \$4,000*). The selected grower for a leased property will be expected to set up an account with the City of Asheville and pay for water usage. You will be charged for an irrigation rate; irrigation rates exclude sewer charges.
- **B.** Drainage (Runoff): Water drainage (from rainfall or irrigation) must remain on site. The Lessee shall minimize runoff by use of best management practices. Changes in topography created by the removal or addition of soil must maintain all water on site.
- C. Erosion control: Lessee must control soil erosion as completely as possible. Lessee shall comply with the applicable sections of the Stormwater, Soil Erosion and Sedimentation Control, Illicit Discharge and Connection Ordinance of Chapter 7 of the Unified Development Ordinance of the Code of Ordinance of the City of Asheville. Lessee shall establish an appropriate ground cover and install soil erosion control measures on the leased area when the premises are not in production, satisfactory to the Lessor. Stockpiling of any and all loose soils shall be placed at the furthest point from the river and/or wetland and Lessee shall install soil erosion control measures around said stockpile(s).
- **D.** Hours of Operation: The properties may be accessed from dawn to dusk.
- **E.** Use of Mechanical Equipment: No mechanical equipment may be operated outside of the hours of 8AM-8PM daily. Activities must comply with all existing City noise ordinances.
- **F.** Vehicular Access: Throughout the entire term of the lease (including development phases), the potential impacts on the surrounding neighborhood must be considered. The project must be designed and operated with satisfactory consideration to traffic flow, parking, and pedestrian safety.
- **G. Noise:** Activities must comply with the <u>noise ordinance</u> provisions of the City of Asheville and any amendments thereto.
- **H. Odor:** The Lessee should make all reasonable attempts to control odor on the premises, including best practices for composting and reuse of garden materials.
- **I. Sheds:** Permanent tool storage sheds may be appropriate for certain sites, but any proposed buildings will require prior written approval from the City of Asheville.
- **J. Season-Extending Structures:** The design and location of large, permanent season extending structures (greenhouses, hoophouses, coldframes) are subject to approval by City of Asheville staff.

- **K. Fences:** The Lessee may erect fences on the Leased Property pursuant to the City of Asheville code §7-10-3. Plans for fences should be approved by City staff.
- **L. Maintenance:** Lessee shall also keep the Leased Property mowed and trimmed as to all leased areas not under cultivation. The property must be maintained in an aesthetically appealing and safe manner free of graffiti and debris along the sidewalks and right-of-way.
- **M. Fires/cooking:** Lessees (or guests) may not start or maintain a campfire, or burn weeds or crop residues on the site. Limited use of a barbecue grill is permitted for special events, with prior written permission from the City's Office for Special Events and Fire Department.
- **N. Smoking:** Smoking is prohibited on City sites per City <u>ordinance</u>. E-cigarettes are also prohibited from use on City property.
- O. Personal Property: The Lessee shall be responsible for any gardening or farming tools or implements on the Leased Property and shall secure and store any personal property left on the Leased Property. Lessee agrees the City is not responsible for lost, stolen, or damaged garden-related materials, tools, or implements of any nature and agrees to hold the City harmless from said loss or damage.
- **P. Urban Agriculture Lessee/Users:** Lessee(s) should be made aware that they are not considered to be employees or volunteers of the City and that the City has no responsibility to them in the activities that they choose to undertake.
- **Q. Pets:** Pets on the site must be on a leash per the City <u>leash ordinance</u>.
- **R.** Chickens and Ducks (Fowl): Asheville City Code (Article IV) allows for the raising of fowl for egg or meat production. The maximum total number of permitted fowl allowed to be owned or kept on an individual lot is one animal per 500 square feet of lot size, rounded down, but in no event will the total number of permitted fowl on any lot exceed 20.
- **S.** Accessibility: If City sites are to be used for any type of public education, then they must be accessible to people with all ability levels and meet the design requirements of the Americans with Disabilities Act (ADA). Although there are no formal ADA design guidelines for urban agriculture, best practices include: Establishing an accessible entrance, creating routes of sufficient width so that wheelchair users can navigate between garden components, building raised beds (at least 2 ft. high and 30 in. wide) for disabled access in at least some portion of the property.
- **T. Use of Pesticides and Agricultural Chemicals:** The Lessee shall make the best efforts to obtain organic certification under the <u>USDA National Organic Program</u>. In the event that certification is not awarded, Lessee must continue to operate, to the best of his ability, in accordance with the principles and restrictions of the <u>USDA National Organic Program</u>.

VIOLATION OF ANY OF THE ABOVE RULES MAY BE CAUSE FOR TERMINATION.

All City of Asheville codes apply. To view all relevant City codes, and ordinances: https://www.municode.com/library/nc/asheville/codes/code_of_ordinances

By signing the below, Urban Agriculture Lease Applicant acknowledges that they have reviewed the above rules and procedures for large agriculture lease use and agree to comply with these rules if selected to participate in the Urban Agriculture Lease Program.

Applicant Name:		
Email:		
Address:	-	
Phone:		
Signature:		Date: